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April 9, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S W
Washington, D.C 20554

Re: RM-10865/DA No. 04-700—
Comment on the CALEA Petition for Rulemaking

Dear Madam Secretary:

The Baltimore County Police Department submits these comments on the U.S. Department of Justice's ("DOJ"), Federal Bureau of Investigation's ("FBI"), and U.S. Drug Enforcement Administration's ("DEA") Joint Petition ("Petition") filed on March 10, 2004, before the Federal Communications Commission ("FCC") requesting that the FCC resolve, on an expedited basis, various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act ("CALEA")

It is vitally important, and consistent with Congressional intent in enacting CALEA, that the FCC initiate a rulemaking proceeding and adopt the rules proposed by the DOJ, FBI, and DEA in the above Petition. Congress enacted CALEA in 1994 to ensure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies change. Since 1994, many new communications technologies have arisen, including broadband Internet access, voice over IP telephony ("VoIP"), push-to-talk digital dispatch services, and other packet mode services. These services, currently used by millions of American citizens, pose a great challenge to state and local law enforcement in that many such providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Thus, law enforcement has been thwarted in its attempts to implement lawfully authorized surveillance intercepts. Voluntary industry compliance with CALEA does not work.

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Currently, Verizon Wireless and Sprint PCS offer features available to the end user, the customer, that they can not or will not deliver to Law Enforcement. These features include PTT or Push to Talk, IM or Instance Messaging, web browsing and real time photographs.

The Baltimore County Police Department has conducted investigations involving these telecommunication carriers where information authorized by the court orders was not delivered.

The Baltimore County Police Department's Vice Narcotics Section recently concluded an investigation where one of the targets owned a Sprint PCS wireless telephone that was the focus of the investigation. The court order authorized both CDC (data) and CCC (audio). The failure of Sprint to deliver the PTT, IM, web browsing and photographs real time did hinder the investigation.

In conversations with Sprint it was confirmed that some of the call records received on the collection system were new features and any questions regarding this topic would be referred to a supervisor. Baltimore County Technicians copied and faxed call records related to the questioned sessions to Sprint. Baltimore County Technicians offered to tag a third generation Sprint PCS telephone provided by Sprint to verify session records with our collection system and share the data as it related to interception and J-Standard messaging. To date, Sprint has not responded.

Currently, Baltimore County has active investigations with the above two-telecommunication carriers. Not all information authorized by the court orders are being delivered. Responses from the telecommunication carriers have been "it is not technically possible at this time".

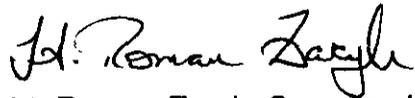
Furthermore, state and local law enforcement do not possess the financial or personnel resources to develop costly (*ad hoc*) surveillance solutions for each new communications service. Nor should they have to under the current law. For all equipment, services and facilities deployed after January 1, 1995, Congress, through CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carrier themselves.

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Given the importance of the issues, discussed above, it is important that the FCC promptly act upon the Petition and commence a rulemaking proceeding adopting the DOJ's, DEA's, and FBI's proposed rules.

Thank you for your consideration. I may be reached at (410) 887-2448, if there are any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lt. Roman Zaryk". The signature is written in a cursive style with a large, stylized initial "L".

Lt. Roman Zaryk, Commander
Criminal Intelligence Unit
Baltimore County Police Department